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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,819	04/24/2001	Hendrik J. Bergveld	PHN 16,698A	5322

7590

03/18/2004

Corporate Patent Counsel  
U. S. Philips Corporation  
580 White Plains Road  
Tarrytown, NY 10591

EXAMINER
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NGUYEN, SIMON

ART UNIT	PAPER NUMBER
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2685

11

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/840,819

**Applicant(s)**

BERGVELD ET AL.

**Examiner**

SIMON D NGUYEN

**Art Unit**

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 12-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,298,222 in view of Kawano et al. (5,774,797), wherein Shimo teaches that a power of the communication device is varied by controlling a DC/DC converter (see rejection below).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toda (5,603,106) in view of Shimo (5,774,797).

Regarding claim 12, Toda discloses a communication system, comprising: a base station and a communication terminal (column 1 line 23) wherein the communication terminal including an amplifier which outputs a signal having a frequency value and wherein a power of the communication terminal is varied in dependence of the frequency value (column 2 lines 9-23), a converter for measuring voltage at each power level and frequency value (column 5 line 42-50) wherein the control means (#10 of fig.8) selects one of the values stored in the control data table in accordance with a specified value of the transmission frequency (column 2 lines 14-18, fig.7) which means the control input value of which is exclusively controlled in dependence of the frequency value. However, Toda does not specifically disclose that the converter is a DC/DC converter.

In the same kind of invention, Shimo discloses a portable telephone (fig.3) including a variable voltage generator (#11), wherein the variable voltage generator controls a DC/DC converter (#23) to vary an electrical supply of the amplifier of the portable telephone wherein the control input value is controlled in dependence of the frequency value (frequency time slot)(title, column 7 lines 18-45, column 8 to column 9 line 30). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have Toda, modified by Shimo to adjust the voltage supply at different power levels to the portable telephone by increasing the voltage supply to the power amplifier when the telephone is in a transmission mode and decreasing the voltage

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supply when the telephone is in a receiving mode in order to conserve the power of the battery.

Regarding claims 16 and 20, these claims are rejected for the same reason as set forth in claim 12.

Regarding claims 13, 17, and 21, Toda discloses the mobile terminal storing data for controlling the power (column 4 lines 34-42).

Regarding claims 14, 18, and 22, Toda discloses the mobile terminal comparing a level of the signal with a desired signal level (column 8 lines 49-60).

Regarding claim 15, Toda discloses the base station instructing the mobile terminal to increase or decrease the transmission power (column 3 lines 15-17).

Regarding claims 19 and 23, Toda discloses the power level outputs from the mobile terminal provided by a radio base station control apparatus (column 3 lines 18-22).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (703) 308-1116. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward, can be reached on (703) 305-4385.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

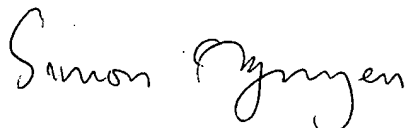
Or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Hand-delivered response should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Simon Nguyen

March 11, 2004

A handwritten signature in cursive script that reads "Simon Nguyen".